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NOV 13 2012

Board of Vocational Nursing
and Psychiatric Technicians

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2010-1659

**ALBERT WILLIAM COX, JR.
740 Rhine Court
Los Banos, CA 93635**

ACCUSATION

Vocational Nurse License No. VN 206754

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about October 30, 2003, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN 206754 to Albert William Cox, Jr. (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2012, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws.

1 All section references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2875 of the Business and Professions Code ("Code") provides, in pertinent
3 part, that the Board of Vocational Nursing and Psychiatric Technicians ("Board") may discipline
4 the holder of a vocational nurse license for any reason provided in Article 3 (commencing with
5 section 2875) of the Vocational Nursing Practice Act.

6 5. Section 2878 of the Code states:

7 "The Board may suspend or revoke a license issued under this chapter [the Vocational
8 Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

9 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

10 . . ."

11 6. Section 2878.5 of the Code states:

12 "In addition to other acts constituting unprofessional conduct within the meaning of this
13 chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed
14 under this chapter to do any of the following:

15 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
16 physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or
17 administer to another, any controlled substance as defined in Division 10 of the Health and Safety
18 Code, or any dangerous drug as defined in Section 4022.

19 "(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code,
20 or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a
21 manner dangerous or injurious to himself or herself, any other person, or the public, or to the
22 extent that the use impairs his or her ability to conduct with safety to the public the practice
23 authorized by his or her license.

24 "(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous
25 drug, or the prescription, consumption, or self-administration of any of the substances described
26 in subdivisions (a) and (b) of this section, in which event the record of the conviction is
27 conclusive evidence thereof.

1 "(d) Be committed or confined by a court of competent jurisdiction for intemperate use of
2 or addiction to the use of any of the substances described in subdivisions (a) and (b) of this
3 section, in which event the court order of commitment or confinement is prima facie evidence of
4 that commitment or confinement.

5 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
6 hospital, patient, or other record pertaining to narcotics or dangerous drugs as specified in
7 subdivision (b)."

8 7. Section 11032 of the Health and Safety Code provides, in pertinent part, that the term
9 "narcotics" means controlled substances classified in Schedule I or II as defined in section 11054
10 or 11055 of that code.

11 8. Section 11032 of the Health and Safety Code provides, in pertinent part, that the term
12 "restricted dangerous drugs" means controlled substances classified in Schedules III and IV as
13 defined in sections 11056 and 11057 of that code.

14 The licensed vocational nurse performs services requiring technical and manual skills
15 which include the following:

16 9. California Code of Regulations, Title 16, section 2518.5 provides:

17 "(a) Uses and practices basic assessment (data collection), participates in planning, executes
18 interventions in accordance with the care plan or treatment plan, and contributes to evaluation of
19 individualized interventions related to the care plan or treatment plan.

20 "(b) Provides direct patient/client care by which the licensee:

21 "(1) Performs basic nursing services as defined in subdivision (a);

22 "(2) Administers medications;

23 "(3) Applies communication skills for the purpose of patient/client care and education; and

24 "(4) Contributes to the development and implementation of a teaching plan related to self-
25 care for the patient/client."

26 10. California Code of Regulations, Title 16, section 2518.6 provides:

27 "(a) A licensed vocational nurse shall safeguard patients'/clients' health and safety by
28 actions that include but are not limited to the following:

1 "(1) Reporting to the Board acts specified in Sections 2878 and 2878.5 of the Business and
2 Professions Code;

3 "(2) Documenting patient/client care in accordance with standards of the profession; and

4 "(3) Performing services in accordance with Section 125.6 of the Business and Professions
5 Code.

6 "(b) A licensed vocational nurse shall adhere to standards of the profession and shall
7 incorporate ethical and behavioral standards of professional practice which include but are not
8 limited to the following:

9 "(1) Maintaining current knowledge and skills for safe and competent practice;

10 "(2) Maintaining patient/client confidentiality;

11 "(3) Maintaining professional boundaries with the patient/client;

12 "(4) Abstaining from chemical/substance abuse; and

13 "(5) Cooperating with the Board during investigations as required by Section 2878.1 of the
14 Business and Professions Code.

15 "(c) A violation of this section constitutes unprofessional conduct for purposes of initiating
16 disciplinary action."

17 11. California Code of Regulations, Title 16, section 2521 provides:

18 "For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5
19 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
20 considered to be substantially related to the qualifications, functions or duties of a licensed
21 vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed
22 vocational nurse to perform the functions authorized by his license in a manner consistent with
23 the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those
24 involving the following:

25 "(a) Procuring a license by fraud, misrepresentation, or mistake.

26 "(b) A conviction of practicing medicine without a license in violation of Chapter 5 of
27 Division 2 of the Business and Professions Code.

"(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the Business and Professions Code.

"(d) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of any of the provisions of Article 13, Chapter 5, Division 2 of the Business and Professions Code.

"(e) Conviction of a crime involving fiscal dishonesty.

"(f) Any crime or act involving the sale, gift, administration, or furnishing of "narcotics or dangerous drugs or dangerous devices" as defined in Section 4022 of the Business and Professions Code."

12. Section 118, subdivision (b), of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUGS

14. Morphine is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(M), and a dangerous drug as designated by Business and Professions Code section 4022. It is used to treat moderate to severe pain.

15. Tylenol #3 (acetaminophen with codeine) is a commonly used designation for compounds of varying dosages of acetaminophen and codeine, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(2) and a dangerous drug as designated by Business and Professions Code section 4022. It is a narcotic drug.

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FIRST CAUSE FOR DISCIPLINE
(INCORRECT ENTRIES IN PATIENT RECORDS RELATED TO CONTROLLED
SUBSTANCES)

16. Respondent is subject to disciplinary action under Code section 2878 and/or 2878.5(e), in that while on duty as a licensed vocational nurse at the California Department of Corrections and Rehabilitation Correctional Training Facility in Salinas, California, Respondent falsified, made grossly incorrect, grossly inconsistent, or unintelligible entries in hospital and patient records, as alleged below.

17. On August 26, 2010 Respondent signed out one 30 mg morphine tablet for Patient 1. The Patient did not have a prescription for morphine. On August 26 and 27, 2010 Respondent signed out Tylenol #3 for Patient 1 when the patient's prescription for Tylenol #3 had expired on August 18, 2010.

18. On August 26, 2010 Respondent signed out four 30 mg morphine tablets for Patient 2. The Patient did not have a prescription for morphine. Respondent crossed out two of the removals leaving a balance of two tablets unaccounted for.

19. On August 26, 2010 Respondent signed out 15 cc of liquid morphine for Patient 4. The patient's prescription called for 10 cc of liquid morphine. Respondent failed to document administration, wastage, or otherwise account for the extra 5 cc of liquid morphine.

20. On August 26, 2010 and again on August 27, 2010 Respondent signed out two Tylenol #3 tablets for Patient 6 at 08:00. The patient's prescription indicated that the patient was to receive one tablet for the morning dose. Respondent failed to document administration, wastage, or otherwise account for the two extra tablets of Tylenol #3.

21. On July 12, 2010, July 13, 2010, July 17, 2010, July 18, 2010, July 19, 2010, July 20, 2010, July 21, 2010, July 24, 2010, and July 25, 2010 Respondent signed out two Tylenol #3 tablets for Patient 8. On July 14, 2010 Respondent signed out four Tylenol #3 tablets for Patient 8. The patient's prescription for Tylenol #3 expired on July 1, 2010.

22. On July 12, 2010 and July 13, 2010 Respondent signed out one Tylenol #3 tablet at approximately 20:00 for Patient 9. The patient's prescription indicated the Tylenol #3 was to be

1 administered in the morning and at noon. Respondent failed to document administration,
2 wastage, or otherwise account for the disposition of the medication.

3 23. On July 12, 2010, July 13, 2010, July 14, 2010, July 17, 2010, July 18, 2010, July 19,
4 2010, July 20, 2010, July 24, 2010, and July 25, 2010 Respondent signed out two Tylenol #3
5 tablets for Patient 10 at 3.5 to 4 hour intervals. The patient's prescription indicated that the
6 patient was to receive two tablets of Tylenol #3 every six hours. Additionally, Respondent signed
7 out four tablets of Tylenol #3 on July 21, 2010; however, the order was for two tablets.

8 24. On July 14, 2010, July 18, 2010, and July 24, 2010 Respondent signed out two
9 Tylenol #3 tablets for Patient 11 at approximately 16:00 hours and again at 20:00 hours. The
10 patient's prescription indicated that the patient was to receive two tablets each evening (16:00).
11 Respondent failed to document administration, wastage, or otherwise account for the disposition
12 of the medication signed out at 20:00. Additionally, Respondent signed out four Tylenol #3
13 tablets on July 21, 2010 at 16:00, in excess of physician's orders which called for only two tablets
14 at 16:00. Respondent failed to document administration, wastage, or otherwise account for the
15 disposition of the medication.

16 SECOND CAUSE FOR DISCIPLINE

17 (OBTAIN OR POSSESS CONTROLLED SUBSTANCES)

18 25. Respondent is subject to disciplinary action under Code section 2878.5(a), in that
19 while on duty as a licensed vocational nurse at the California Department of Corrections and
20 Rehabilitation Correctional Training Facility in Salinas, California, Respondent illegally obtained
21 and/or possessed controlled substances as alleged above in paragraphs 17 to 25 above.

22 THIRD CAUSE FOR DISCIPLINE

23 (FAILURE TO ADMINISTER MEDICATIONS PROPERLY)

24 26. Respondent is subject to disciplinary action under California Code of Regulations,
25 Title 16, section 2518.5(b)(2), in that while on duty as a licensed vocational nurse at the
26 California Department of Corrections and Rehabilitation Correctional Training Facility in Salinas,
27 California, Respondent failed to properly administer medications, as alleged above in paragraphs
28 17 to 25 above.

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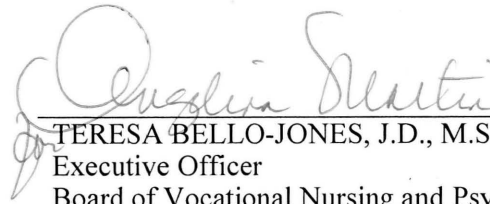
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1 2. Ordering Albert William Cox, Jr. to pay the Board of Vocational Nursing and
2 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
3 pursuant to Business and Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
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7 DATED: **NOV 13 2012**



TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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